IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

Crl.MC.No. 1104 of 2007()

ST.769/2005 of JUDL. MAGISTRATE OF FIRST CLASS-III, KOCHI

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PETITIONER/ACCUSED

V.P.ANTONY, S/O LATE V.C.PAPPACHEN AGED 49 YEARS
PROPRIETOR M/S INDO ELECTRICAL DISTRIBUTORS
RAJAJI ROAD, ERNAKULAM

BY ADV. SRI.P.M.JOSHI

RESPONDENTS:/COMPLAINANT

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1. **M/S CROMPTON GREAVES LTD. CHERUPUSHPAM BUILDING 3RD FLOOR, 300-6, SHANMUGHAM ROAD, KOCHI-31 REPRESENTED BY THE POWER OF ATTORNEY HOLDER MR. SIMON ZACHARIA**

2. **STATE OF KERAL REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERLALA**

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1104 OF 2007

Dated this the 4th day of April, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. He was enlarged on bail. But on account of an erroneous noting down of the date, the petitioner could not appear before the learned Magistrate on a specific date of posting and thereupon, he finds himself facing the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, his absence was not wilful. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge.